

Gibson
amendment

Amendments to Senate Bill No. 6666
1st Reading Copy

Requested by Senator Larry Jent
(Suggested by Steve Gibson of DOC -- restricts the registration requirements of the committee bill, with respect to youth, to ONLY those youth adjudicated under the EXTENDED JURISDICTION provisions of the Youth Court Act -- this amendment would change current law by eliminating judges' authority to order juveniles to register)

For the Senate Judiciary Committee

Prepared by Valencia Lane
February 14, 2007 (7:37am)

1. Page 10.

Strike: subsection (c) through subsection (d) in their entirety so that on page 10, subsection (c) would be shown as stricken in the committee bill as follows and (d) would go away entirely;

(ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or a licensed clinical social worker has evaluated the youth and recommends placement in a state youth correctional facility; and

(iii) the court finds that the youth will present a danger to the public if the youth is not placed in a state youth correctional facility.

~~(c) require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a sexual offense or violent offense, as defined in 46-23-502, if committed by an adult, to register as a sexual or violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection.~~

~~(d)(c)~~ in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge may

2. Page 12.

Following: page 11

Insert: "Section 4. Section 41-5-1604, MCA, is amended to read:

"41-5-1604. Disposition in extended jurisdiction juvenile prosecutions. (1) (a) After designation as an extended jurisdiction juvenile prosecution, the case must proceed with an adjudicatory hearing, as provided in 41-5-1502. If a youth in an extended jurisdiction juvenile prosecution admits to or is adjudicated to have committed an offense that would be a felony if committed by an adult, except an offense punishable by death or life imprisonment or when a sentence of 100 years could be

imposed, the court shall, subject to subsection (1)(b), impose a single judgment consisting of:

(i) one or more juvenile dispositions under 41-5-1512 or 41-5-1513; and

(ii) any sentence allowed by the statute that establishes the penalty for the offense of which the youth is convicted and that would be permissible if the offender were an adult. The execution of the sentence imposed under this subsection must be stayed on the condition that the youth not violate the provisions of the disposition order and not commit a new offense.

(b) The combined period of time of a juvenile disposition under subsection (1)(a)(i) plus an adult sentence under subsection (1)(a)(ii) may not exceed the maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth under the jurisdiction of the youth court. This subsection does not limit the power of the department to enter into a parole agreement with the youth pursuant to 52-5-126.

(2) If a youth prosecuted as an extended jurisdiction juvenile after designation by the county attorney in the delinquency petition under 41-5-1602(1)(b) admits to or is adjudicated to have committed an offense that would be a felony if committed by an adult that is not an offense described in 41-5-1602(1)(b), except an offense punishable by death or life imprisonment or when a sentence of 100 years could be imposed, the court shall adjudicate the youth delinquent and order a disposition under 41-5-1513.

(3) If a youth in an extended jurisdiction juvenile prosecution admits to or is adjudicated to have committed an offense that would not be a felony if committed by an adult, the court shall impose a disposition as provided under subsection (1)(a).

(4) (a) If a youth in an extended jurisdiction juvenile prosecution admits to or is adjudicated to have committed an offense that would be a sexual or violent offense, as defined in 46-23-502 if committed by an adult, the court

(i) shall, prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111; and

(ii) may, in its disposition, order the youth to register and remain registered as a sex offender pursuant to 46-23-504.

(b) If the court requires the youth to register as a sex offender the court shall designate the youth's risk level pursuant to 46-23-509."

{ Internal References to 41-5-1604:

41-5-1605 41-5-1605 41-5-1605 41-5-1605 } "

3. Page 34.

amendments to 46-23-502

On page 34:

Following: "after" in subsection (b)

Strike: "an adjudication or" in 5th line of (b)
in subsection ~~(7)~~(10)

Following: "convicted of"

Strike: ", or, in youth court, found to have committed or been
adjudicated for,"

in ~~(8)~~(11)

(a)

Following: "convicted of"

Strike: ", or, in youth court, found to have committed or been
adjudicated for,"

in ~~(8)~~(11)

(b)

Following: "convicted of"

Strike: ", or, in youth court, found to have committed or been
adjudicated for,"

so that page 34 reads as follows:

victim is less than 18 years of age and the offender is not a
parent of the victim), 45-5-502(3), 45-5-503, 45-5-504(1) (if the
victim is under 18 years of age and the offender is 18 years of
age or older), 45-5-504(2)(c), 45-5-507 (if the victim is under
18 years of age and the offender is 3 or more years older than
the victim), 45-5-603(1)(b), or 45-5-625; or

(b) any violation of a law of another state, a tribal
government, or the federal government that is reasonably
equivalent to a violation listed in subsection (6)(a) or for
which the offender was required to register as a sex offender
after conviction.

~~(7)~~(10) "Sexual or violent offender" means a person who has
been convicted of a sexual or violent offense.

~~(8)~~(11) "Sexually violent predator" means a person who:

(a) has been convicted of a sexual offense and who suffers
from a mental abnormality or a personality disorder that makes
the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim
12 years of age or younger and the offender is 18 years of age or
older.

(12) "Transient" means an offender who has no residence.

~~(9)~~(13) "Violent offense" means:

(a) any violation of or attempt, solicitation, or

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